

[Back](#) [Print](#)

## Board of County Commissioners Agenda Request 3

**Date of Meeting:** April 22, 2003

**Date Submitted:** April 17, 2003

**To:** Honorable Chairman and Members of the Board

**From:** Parwez Alam, County Administrator  
Kim Dressel, Director of Management Services

**Subject:** Approval to Revise Definition of "Local Business" in the Local Preference Ordinance

---

### **Statement of Issue**

To approve a revision to the Local Preference Ordinance by adding to the definition of a " local business."

### **Background**

The current Local Preference Ordinance, Section 2-400 of the Code of Laws of Leon County, Florida (Attachment #1), was adopted March 26, 2002, at the First and Only Public Hearing on the Ordinance. The Public Hearing had been continued from March 12, 2002, in order for the Tallahassee Chamber of Commerce and the Capital City Chamber of Commerce to review and comment on the Ordinance. No formal comment was received from either organization.

At the Board's annual retreat on December 9, 2002, one of the Administrative Issues to address under Priority #2 - Economic Development - is to: **Revisit the Definition of " Local Business" for Local Business Preference in the RFP Process.** The Board requested this be brought back as an agenda item.

### **Analysis**

The " Local Business" definition, currently in the ordinance, reads as follows:

13

For purposes of this section, "local business" shall mean a business which:

- a) Has had a fixed office or distribution point located in and having a street address within Leon County for at least six (6) months immediately prior to the issuance of the request for competitive bids or request for proposals by the County; and
- b) Holds any business license required by the County, and, if applicable, the City of Tallahassee; and
- c) Employs at least one (1) full time employee, or two (2) part time employees whose primary residence is in Leon County, or, if the business has no employees, the business shall be at least fifty-percent (50%) owned by one or more persons whose primary residence is in Leon County.

After research and review of local business definitions from cities and counties around the country, staff recommended the above definition since it addressed location, holding County license, and required either Leon County residents as employees or majority owners. The definition is also very similar to that of the City of Tallahassee (Attachment 2). It differs from the City's in the geographical area defined as a "local business" - Leon, Wakulla, Gadsden and Jefferson counties - and its requiring full-time employees (no number specified).

Staff research found that the factors of location, licensure, numbers of months/years in location, and some employment requirements present in the Leon County and the City of Tallahassee local business definitions are the most common. Some additional requirements found were:

- a. business cards for the local office.
- b. local business stationery.
- c. proof of a written agreement for occupancy of the local office.
- d. a listing of the local business in an appropriate business buyers guide, such as the yellow pages or trade directory.

e. a conspicuously displayed business sign at the local business premises.

f. incorporation in the state of the defined geographic region.

Most other local business definitions include Disadvantaged Business Enterprise (DBE) programs and have qualifications related to business size, ownership, and other economic factors that are the basis for the DBE program.

Discussion by the Commission in the various meetings where the definition has been addressed has focused on two factors: 1) the intent to encourage the start-up of viable small businesses; and 2) the fact that large corporations or companies with local offices qualify as local businesses under the current definition. The ordinance as written and adopted was designed to recognize local business operations and give a five-percent preference in bids and requests for proposals. It does not differentiate between size, age, success, or any other similar factor, only on the basis of location. To use one or more of these other factors would arguably provide the basis for a DBE program rather than providing a local preference in purchasing. To adjust the number or type of employees required or to expand the geographic area are merely matters of choice.

Staff recommends that an addition be made to **Sec. 2-400. Local preference in purchasing and contracting.** (d) *Local business definition.* Adding paragraph (4) will codify the intent and practice of how the definition is applied and used for giving a preference. The preference is for the offeror (bidder or respondent) and not based upon one or more subcontractors.

(4) The local business shall be the principal Offeror who is a single Offeror; a business which is the prime contractor and not a subcontractor; or a partner or joint venturer submitting an offer in conjunction with other businesses.

### Options

1. Approve addition to definition of " Local Business" in the Local Preference Ordinance and direct staff to revise the Code of Laws of Leon County, Florida.
2. Do not approve addition to definition of " Local Business" in the Local <sup>13</sup>

## Preference Ordinance

and retain current Local Preference Ordinance as is.

### 3. Board direction.

## Recommendation

Option #1.

## Attachments

1. Section 2-400 of the Code of Laws of Leon County, Florida

2. Section 2-203 of the City of Tallahassee Code

[Back](#)

[Print](#)

telephone company to take action to enforce collection shall not be deemed a waiver by Leon County of any rights it might have to obtain compliance with the terms of this division.

(c) The telephone company shall commence collection of this fee at the time and rate set forth in the resolution adopted pursuant to section 2, paragraph (1) herein.

(d) The clerk to the Board of County Commissioners shall establish and maintain a separate audit account in accordance with the provisions of Section 365.171(13)(a)3, Florida Statutes, or its successor provision and shall report to the Board of County Commissioners if any deficit or surplus exists in said account at the appropriate time in accordance with law.

(e) Any and all fees collected by the telephone company and remitted to Leon County in excess of current expenditures for the "E-911" system may be invested by the clerk in any manner provided by law. Any interest earned on any fees collected pursuant to this division shall be credited to and deposited in the "E-911" fund. (Ord. No. 89-5, § 4, 3-14-89)

Secs. 2-355—2-399. Reserved.

## ARTICLE IX. PURCHASING

### Sec. 2-400. Local preference in purchasing and contracting.

(a) *Preference in bidding.* In purchasing of, or letting of contracts for procurement of, personal property, materials, contractual services, and construction of improvements to real property or existing structures in which pricing is the major consideration, the authorized purchasing authority of the county may give a preference to local businesses in making such purchase or awarding such contract, in an amount of five percent of the bid price for purchases under \$250,000.00, and two percent of the bid price for purchases \$250,000.00 and above. The maximum cost differential shall not exceed \$20,000.00. Total bid price shall include the base bid and all alternatives or

options to the base bids which are part of the bid and being recommended for award by the appropriate authority.

(b) *Preference in requests for proposals.* In purchasing of, or letting of contracts for procurement of, personal property, materials, contractual services, and construction of improvements to real property or existing structures for which a request for proposals is developed with evaluation criteria, a local preference of not more than five percent of the total score may be assigned for a local preference. Based upon analysis of the marketplace for each project, staff shall make a recommendation for or against inclusion of a local preference in the criteria for consideration by the Board as a part of the pre-approval agenda item for each request for proposal.

(c) *Notice.* Both bid documents and request for proposal documents shall include notice to vendors of the local preference policy.

(d) *Local business definition.* For purposes of this section, "local business" shall mean a business which:

- (1) Has had a fixed office or distribution point located in and having a street address within Leon County for at least six months immediately prior to the issuance of the request for competitive bids or request for proposals by the county; and
- (2) Holds any business license required by the county, and, if applicable, the City of Tallahassee; and
- (3) Employs at least one full-time employee, or two part-time employees whose primary residence is in Leon County, or, if the business has no employees, the business shall be at least fifty percent owned by one or more persons whose primary residence is in Leon County.

(e) *Certification.* Any vendor claiming to be a local business as defined by subsection 2-400(d) above, shall so certify in writing to the purchasing division. The certification shall provide all necessary information to meet the requirements of section 2-400(d) above. The purchasing agent shall not be required to verify the accuracy of any

such certifications, and shall have the sole discretion to determine if a vendor meets the definition of a "local business."  
(Ord. No. 02-02, § 1, 3-26-02)

Section 3. Section 2-202 of the City of Tallahassee Code shall be, and the same is hereby, created to read as follows:

Section 2-202. Exceptions to Local Preference Policy. The preference set forth in this Article X shall not apply to any of the following purchases or contracts:

- 1) Purchases or contracts with an estimated value of \$10,000.00 or less;
- 2) Contracts for professional services procurement of which is subject to the Consultants Competitive Negotiation Act or subject to any competitive consultant selection procedure adopted by the City Commission or the City Manager;
- 3) Purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of that preference; or
- 4) Purchases made or contracts let under emergency procurement situations as such are defined in the City's Purchasing Property Disposal Manual.

Section 4. Section 2-203 of the City of Tallahassee Code shall be, and the same is hereby created to read as follows:

→ Section 4. Section 2-203. Definition of Local Business.

The term "local business" shall mean a person, firm, corporation, or other business entity which is duly licensed and authorized to engage in the particular business at issue, and which has maintained a permanent place of business with full-time employees within Leon, Wakula, Gadsden, or Jefferson County, Florida, for a minimum of six (6) months prior to the date bids were received for the purchases or contract at issue.

Section 5: This ordinance shall become effective on \_\_\_\_\_, 1999.

INTRODUCED in the City Commission on the 23<sup>rd</sup> day of June 1999.

Passed the City Commission on the \_\_\_\_ day of \_\_\_\_\_ 1999.